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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,579	11/12/2003	Herbert C. Hilicus SR.	2304.001	6666
23405	7590	04/07/2005	EXAMINER	
HESLIN ROTHENBERG FARLEY & MESITI PC			GRANT, ALVIN J	
5 COLUMBIA CIRCLE			ART UNIT	
ALBANY, NY 12203			PAPER NUMBER	

3723

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/706,579	Applicant(s) HILICUS, HERBERT C.	
	Examiner Alvin J Grant	Art Unit 3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-20 and 24-27 is/are allowed.
- 6) ☒ Claim(s) 1, 4-12, 21, 22, 28, 30 and 31 is/are rejected.
- 7) ☒ Claim(s) 2, 3, 23, 29, 32 and 33 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/12/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show: a gear reducer (38); and a leg (44) in Fig. 3, as respectively disclosed in lines 18, and 24 of page 5 of the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

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2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "30" and "32" have both been used to designate lugs in Fig. 2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informality:
Page 6, line 13, the phrase "hubs may suitable for texturizing" is awkwardly written.

Appropriate correction is required.

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Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1, 4, 7, 8, 12, 21, 22 and 28** are rejected under 35 U.S.C. 102(b) as being anticipated by Brewer '854.

Referring to claims 1, 4, 7, 8, 12 and 21, Brewer discloses an apparatus comprising: a stand (62) tire mount (62) supported by the stand and releasably attachable to the tire, a tire rasp, a tire rasp mount attachable to the tire rasp (26), a support for pivotally attaching the tire rasp mount to the stand (column 9, line 29), a driver operably connected to the tire mount and to the tire rasp for rotating the tire mount and the tire rasp (28 and 58), and wherein the operator is able to manually move the tire rasp into contact with the tire and apply pressure between the tire rasp and the tire to texturize tread surfaces of the tire; the tire rasp is movable toward and away from the tread surfaces of the tire, across the tread surfaces of the tire, and around edges of the tread surfaces of the tire; an axis of the tire and an axis of the tire rasp are disposed horizontally and parallel to each other (Fig. 2), the rasp comprises a plurality of spaced-apart blades (column 5, lines 30-31); and the support comprises a cage extending around a portion of the tire rasp (29).

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Referring to claims 22 and 28, Brewer discloses a method for texturing tread surfaces of a tire, the method comprising: providing an apparatus of claim 1, operating the apparatus to form a plurality of a least one of slices and grooves circumferentially around portions of the tread surfaces of the tire. It is known that the process of texturing includes slicing and grooving the tire.

6. **Claims 30 and 31** are rejected under 35 U.S.C. 102(b) as being anticipated by Curry '607.

Curry discloses a method for texturizing tread surfaces of a tire, the method comprising: forming a plurality of at least one of slices and grooves into the tread surfaces of the tire while implicitly maintaining the thickness of the thread (column 5, lines 13 and 14); and the plurality of at least one of slices and grooves extend circumferentially around portions of the thread surfaces of the tire.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claim 5** is rejected under 35 U.S.C. 103(a) as being unpatentable over Brewer in view of Marangoni '677.

Brewer is described above. Brewer does not specifically disclose that the rasp mount comprises a pair of handles. Marangoni discloses a machine for treating

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worn out tires in which the surface-finishing element is positioned by a pair of handles so as to enhance the control of the element while being moved by two hands. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the rasp control mechanism of Brewer to have two handles as taught by Marangoni so as to enhance the control of the element when it's being moved by two hands.

9. **Claim 6** is rejected under 35 U.S.C. 103(a) as being unpatentable over Brewer in view of Marangoni and in further view of Crommelynck et al. '926. Brewer as modified is described above. The modified Brewer does not disclose the tire mount and the tire rasp rotate in opposite directions. Crommelynck et al. discloses a machine for processing a tire wherein the tire mount and the tire rasp rotate in opposite directions so as to increase the frictional forces between the rasp and the tire, and therefore enhance the stripping process. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have rotated the rasp and tire of the modified Brewer apparatus in opposing directions as taught by Crommelynck et al. so as to increase the frictional forces between the rasp and the tire, and therefore enhance the stripping process.

10. **Claim 9** is rejected under 35 U.S.C. 103(a) as being unpatentable over Brewer and Marangoni in view of Crommelynck et al. and in further view of Vance '914.

Brewer as modified is described above. The modified Brewer does not specifically disclose a plurality of spaced-apart blades sinusoidally disposed

around the circumference of the rasp. Vance discloses a tire-truing machine having a plurality of spaced-apart blades sinusoidally disposed around the circumference of the rasp so as to optimize the efficiency of the blade. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the rasp of the modified Brewer to have disclose a plurality of spaced-apart blades sinusoidally disposed around the circumference thereof as taught by Vance so as to optimize the efficiency of the blade.

11. **Claim 10** is rejected under 35 U.S.C. 103(a) as being unpatentable over Brewer, Marangoni and of Crommelynck et al. in view of Vance and in further view of Curry '607.

Brewer as modified is described above. The modified Brewer does not specifically disclose a tire mount comprising a plurality of lugs. Curry discloses a tire mount comprising a plurality of lugs so as to secure the tire to the mount. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the wheel mounting apparatus of Brewer to have lugs as taught by Curry so as to secure the tire to the mount.

12. **Claim 11** is rejected under 35 U.S.C. 103(a) as being unpatentable over Brewer, Marangoni, Crommelynck et al. and Vance in view of Curry and in further view of Batt'764.

Brewer is described above. Brewer does not specifically disclose the use of a gasoline engine for rotating the mount and the tire rasp. Batt discloses a steel bead wire-extracting machine for tires wherein a gasoline engine is used for rotary power so as to facilitate the use of the equipment in locations where

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electricity is not available. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used gasoline motors for rotating the mount and tire rasp of Brewer as taught by Batt so as to facilitate the use of the equipment in locations where electricity is not available.

Allowable Subject Matter

13. **Claims 2, 3, 23, 29, 32 and 33** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following are reasons for indicating allowable subject matter:

Regarding claims 2 and 3, the prior art does not anticipate or render obvious an apparatus comprising a plurality of bars, each of which is pivotally attached at one end to a mount for a tool and pivotally attached at the other end to a stand.

Regarding claims 23, 29, 32 and 33, teach grooves being cut in tires 1/32-inch to about 1/16 deep, a feature (disclosed in paragraph 0030 of the specification) that will result in less lateral sliding of the tire.

14. **Claims 13-20 and 24-27** are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin J Grant whose telephone number is (571) 272-4484. The examiner can normally be reached on Mon-Fri 8:00-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J Hail can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alvin J. Grant
Patent Examiner
Art Unit 3723

ajg